

Spy Left Out in the Cold

Ex-CIA 'Spook' Enjoined

By Jim Mann

Washington Post Staff Writer

The Justice Department yesterday obtained a temporary court order to prevent a former agent of the Central Intelligence Agency from publishing a magazine article or book about the CIA's intelligence-gathering activities.

The broadly worded court order, signed by U.S. District Court Judge Albert V. Bryan Jr. in Alexandria, also requires the former agent, Victor L. Marchetti, to return to the CIA all documents and property he obtained while employed at the agency.

Marchetti also was ordered to submit any manuscript or other writing about the CIA — "factual, fictional or otherwise" — to the agency for examination at least 30 days before its release.

The Justice Department action was reminiscent of its effort last year to prevent publication of the Pentagon papers, the government's secret study of the Vietnam war.

Yesterday's request was based on the theory that Marchetti had breached a contract he signed as a CIA employee, promising not to disclose information that might jeopardize national security.

Marchetti was employed by the CIA from 1955 to 1969, serving at one point as executive assistant to the agency's deputy director. After resigning from the agency, he published a novel called "The Rope Dancer" about an employee of the "National Intelligence Agency."

In affidavits submitted to Judge Bryan yesterday, high-ranking CIA officials, including Director Richard Helms, said the CIA has received advance copies of an article entitled "Twilight of the Spooks," written by Marchetti for publication in "a magazine with a nationwide circulation."

The CIA officials said they have also obtained a copy of an outline for a book about the CIA, written by Marchetti and purchased by "a leading publishing house in New York."

The Justice Department did not disclose the names of the publishing house and the magazine. However, late last night, Aaron Latham, an associate editor of Esquire magazine, acknowledged that Marchetti recently wrote an article entitled "Twilight of the Spooks" for Esquire.

Latham said that about two weeks ago, Esquire returned the manuscript without publishing it at Marchetti's request, after Marchetti told Esquire he had signed a contract with the publishing house of Albert A. Knopf to do a book about the CIA.

Sealed copies of the magazine article and book outline were submitted to Judge Ryan by the CIA yesterday for his private examination. The CIA said that agent Robert P. B. Lohmann of New York City obtained the manuscripts from "a confidential source" on March 12. No reason was given for the one-month delay before the court action.

Also included in the court papers was a copy of the "secrecy agreement" signed by Marchetti in 1955.

In it, Marchetti, who had then just graduated from Penn State University, swore that he would never "divulge, publish or reveal either by word, conduct or by any other means, any classified information, intelligence or knowledge . . . unless specifically authorized in writing, in each case, by the director of central intelligence."

Asked last night whether the Justice Department was also considering a criminal prosecution of Marchetti, a department spokesman replied, "That would be something you would

have to take up with the CIA," which he said would be responsible for documenting a case against Marchetti.

Following publication of the Pentagon papers, the Justice Department began a criminal prosecution of Daniel Ellsberg, charging in part that he had violated an agreement he had signed as an employee of the Rand Corp. not to disclose classified information.

Bryan, 45, a judge appointed in 1971 by President Nixon, refused to comment last night on the reasons for his issuance of the court order. A hearing in the case has been scheduled for April 28.

Marchetti, who lives in Vienna, Va., was not present in court when Judge Bryan issued his order yesterday, and could not be reached for comment last night. It was not clear whether he has already given back CIA documents as ordered by Bryan.

Judge Halts Ex-CIA Official's Disclosures

A federal judge, acting at the Justice Department's request, has ordered a former Central Intelligence Agency official to stop talking to news media and publishers about government secrets.

The order issued yesterday by U.S. District Judge Albert V. Bryan Jr. of Alexandria is aimed at Victor L. Marchetti, 42, of Vienna, Va., who resigned from the CIA in August, 1969.

Bryan's order will last for ten days, and at the end of that period — on April 28 — the judge will hold a hearing to determine whether to keep the order in effect.

The Justice Department identified Marchetti as a staff member of the CIA from 1955 through 1969. During his employment, the department said, he served for a time as executive assistant to Vice Admiral Rufus Taylor, who was then CIA's deputy director.

After leaving the CIA Marchetti wrote "The Rope Dancer" which was published last year by Grosset & Dunlap of New York and he also has an article in the April issue of the National magazine entitled "CIA — The President's Loyal Tool."

In a complaint yesterday, the Justice Department said that Marchetti has been talking repeatedly to news media representatives and disclosing to them secrets about U.S. intelligence operations.

The government filed with the judge and has asked him to keep secret copies of a magazine article which, the complaint said, has been sold for publication, and a typewritten copy of a proposal for a full-length book dealing with CIA operations.

Marchetti said last night that he had a contract with Alfred A. Knopf, Inc., to write a nonfiction book about the

agency but that he had not begun to write it.

Marchetti said that his book would be "a balanced attempt to try to explain how the agency works." He said he had agreed to submit it to the agency for scrutiny before it was published.

"I don't know what they're getting so excited about," Marchetti said. "I'm kind of confused as to why they're going to these lengths."

The article, the complaint said, was prepared by Marchetti under the title, "Twilight of the Spooks." Justice Department spokesmen would not confirm a report that the magazine involved is Esquire.

In New York, however, an Esquire editor, Donald Erickson, said Esquire had considered Marchetti's article but decided several weeks ago, with the amicable concurrence of the author, not to publish it, the Associated Press reported.

Erickson said the rejection

was made for literary reasons and not in fear that the government might move to stop its publication.

David Obst, Marchetti's literary representative, told the New York Times he had withdrawn the article from Esquire because he did not want the information to be published before Marchetti's proposed book was written.

CIA Director Richard Helms, in a document filed with the court, said that both of these items contain intelligence data that, if disclosed, would "compromise" current spying operations, cause "grave and irreparable harm" to defense interests, and "seriously disrupt" U.S. foreign relations.

The government challenge to Marchetti potentially raises a new dispute, like that involving last year's newspaper publication of the Pentagon Papers, over published revelations of U.S. secrets.

While Bryan's order does not specifically forbid any magazine or publisher by name to disclose material from Marchetti, the order is aimed at "persons in active concert or participation with" Marchetti in disclosure of U.S. secrets.

Besides banning further disclosures temporarily, the court order requires Marchetti to submit to the CIA 30 days in advance any article — including fiction — dealing with CIA operations.

In addition, Marchetti is ordered to return any CIA documents he has and any notes or memos he has written about them.

The government's challenge to Marchetti is based primarily on a claim that he has violated a contract he signed when he became a CIA employee pledging not to disclose or reveal any secret data unless he was given permission by the CIA director to do so.

Ex-Boss Says Writer on C.I.A. Has Not Revealed Any Secrets

By DAVID E. ROSENBAUM
Special to The New York Times

WASHINGTON, April 19 — Adm. Rufus L. Taylor, the former Deputy Director of Central Intelligence, said today that as far as he knew, his former executive assistant, Victor L. Marchetti, had never revealed intelligence secrets.

A Federal judge issued a temporary restraining order yesterday to prevent Mr. Marchetti from publishing a book or articles about the agency. The judge acted at the request of the Justice Department.

Admiral Taylor, who is now retired and living in Frogmore, S.C., said in a telephone interview that he had read an article by Mr. Marchetti in the April 3 issue of The Nation magazine and had read accounts of several interviews with Mr. Marchetti.

Mr. Marchetti's statements in the article and in the interviews were "inaccurate but not damaging," Admiral Taylor said.

Only Known Case

Experts in an out of the Government said today that they knew of no other instance in which the Government had filed suit to keep one of its former employees from speaking or writing.

One specialist in intelligence affairs said, however, that he believed Mr. Marchetti was the first person ever to leave the Central Intelligence Agency and then publicly criticize the agency's activities.

Mr. Marchetti, now 42 years old, left the agency in 1969 after 14 years. His highest position was as executive assistant to Admiral Taylor, who was deputy director from 1966 to 1969.

Except for the article in The Nation, Mr. Marchetti's only published work is a novel, "The Rope Dancer," which came out last fall. In the novel, fictitious agents distort facts to fit the whims of the President of the United States and plot to overthrow a South American government.

Mr. Marchetti has a contract with Alfred A. Knopf, Inc., to write a nonfiction book about the agency. In an interview, Mr. Marchetti said the book would be "a balanced attempt to try to explain how the agency works."

He said that he had not begun to write the book and that he had agreed to submit his manuscript to the C.I.A. for scrutiny before it was published.

Mr. Marchetti recently wrote an article for Esquire magazine, but the article was withdrawn and never published. Mr. Marchetti's literary representative, David Obst, said he had with-

drawn the article because he wanted to save Mr. Marchetti's material for the forthcoming book. An Esquire editor said the manuscript had been rejected for literary reasons.

Both the Esquire manuscript and a proposed outline for the book were sent to several major publishers in an attempt to sell the book, Mr. Obst said.

The Government included sealed copies of the manuscript and the outline with its complaint. The manuscript, the Government said, would "result in grave and irreparable damage to the national defense interests of the United States and the conduct of foreign relations."

There is a "substantial likelihood" that the book would "divulge currently classified information," the complaint continued.

Hearing Set April 28

The restraining order was issued by Judge Albert V. Bryan Jr. of the Federal District Court for the Eastern District of Virginia. He set a hearing for April 28, after which he will decide whether to issue an order permanently restraining Mr. Marchetti from publishing works about the agency.

Justice Department lawyers were said to be basing their case on the contention that by publishing works about the agency, Mr. Marchetti would breach a contract, namely the "secrecy agreements" he signed upon joining and leaving the agency.

In these agreements, Mr. Marchetti promised not to reveal intelligence information without the permission of the agency.

Lawyers for the American Civil Liberties Union, who are representing Mr. Marchetti, contend that to prevent Mr. Marchetti from publishing a work before it is written would be prior restraint in violation of the First Amendment.

They are relying heavily on the Pentagon papers case, in which the Supreme Court declared last summer that any attempt by the Government to block articles prior to publication bears "a heavy burden of presumption against its constitutionality."

Admiral Taylor said today that he came to Washington a few weeks ago and told Mr. Marchetti at lunch that "I hoped he would be careful about what he wrote and would submit everything to the agency before it was published."

Admiral Taylor said that Mr. Marchetti had promised to do so and that he was satisfied with the promise.

CIA Says It Won't Prosecute Ex-Agent for Revealing Secrets

By Jim Mann

Washington Post Staff Writer

A spokesman for the Central Intelligence Agency yesterday ruled out the possibility that the CIA will seek a criminal prosecution of former agent Victor L. Marchetti for allegedly disclosing agency secrets.

"We're not going to do anything like that, for heaven's sake," the CIA spokesman said. "All we want is for this guy to shut up. It's a one-time thing, I think."

On Tuesday, the Justice Department, acting on behalf of the CIA, obtained a temporary court order preventing Marchetti from writing about CIA activities, as he had planned under a contract with the publishing house of Alfred A. Knopf.

Yesterday, there were the following other developments:

- Marchetti struck back at the CIA, contending that its efforts to keep him from writing his book reflect "a paranoid, clandestine mentality, more than I ever thought." He retired from the CIA in 1969.

- A spokesman for the American Civil Liberties Union, which has agreed to represent Marchetti, termed the impending court battle over Marchetti's book more important than the battle over the Pentagon Papers on the Vietnam war last June.

- A spokesman for Knopf said that the publishing house has not yet decided whether it, too, will enter the court battle. Yesterday afternoon, lawyers for Knopf were said to be studying the order issued by U.S. District Court Judge Albert V. Bryan Jr. in Alexandria.

Issues Denial

Bryan's order also requires Marchetti to show the CIA anything he writes about the

subject of intelligence, even if it is fictional, within 30 days before its release, and orders Marchetti to return to the CIA any documents he might have taken when he quit the agency.

In an interview yesterday, Marchetti denied that he had ever taken any documents from the CIA:

"I don't have any documents to return . . . I'm not a (Daniel) Ellsberg. I did not walk out with a boxload of stuff. That's not my bag."

Marchetti said that the book he plans is not yet written. He has just finished his reading and research for it, he said. He envisions the book as "at times apologetic, at times critical" of the CIA.

The former agent has already written a novel about the CIA called "The Rope Dancer." He said yesterday that he submitted a copy of the novel to the CIA in advance. The agency had no official comment, he said.

The grounds on which the Justice Department obtained the court order is that Marchetti, when hired by the CIA

in 1955, signed a "secrecy agreement" preventing him from disclosing information about agency activities without clearance from the director of the CIA.

Effect of Publicity

Marchetti, who now supports himself with the money he earns from writing about the CIA and intelligence, said he hopes the new publicity will help his novel. "It's still dribbling along (in sales) . . . I'm hoping some good will come out of this."

Ralph Temple, executive director of the ACLU's Washington office, said he feels Marchetti's case overshadows the battle over the Pentagon Papers because "There you were talking about publishing government documents (about the Vietnam war) Here they're stopping a guy from writing something."

Marchetti

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Judge Won't Lift Ban on CIA Articles

By Paul G. Edwards

Washington Post Staff Writer

U.S. District Judge Albert V. Bryan Jr. ruled tentatively yesterday in Alexandria that Victor L. Marchetti, former agent for the Central Intelligence Agency, signed away his constitutional right to write and talk about CIA activities and policies.

Bryan refused to dissolve a temporary restraining order that he imposed on Marchetti Tuesday. He also denied Marchetti's lawyers access to a CIA affidavit that explains why the agency believes Marchetti's past writings and public statements have violated national security.

Both rulings were appealed immediately. A hearing on the appeal is scheduled for 10:30 a.m. today in Baltimore before Judge Harrison Winter of the

He added that it appears on the face of the government allegations that Marchetti may have violated his agreement with the CIA.

Since he left the CIA in 1969 after 14 years as an agent and administrator, Marchetti has written a spy novel, "The Rope Dancer," and had an article critical of the CIA published in The Nation magazine.

Melvin L. Wulf, legal director of the American Civil Liberties Union and one of Marchetti's lawyers, said during yesterday's hearing that Marchetti is working on a book about the CIA to be published in 1973 by Alfred A. Knopf, a subsidiary of Random House.

Wulf also said that the former CIA official did some work on an article for Esquire

Magazine from printing classified Defense Department accounts of the origins of the Vietnam war.

Justice Department attorney Irwin Goldbloom argued that "this is not a First Amendment case" and that the "New York Times case has no application here."

"There was no allegation in that case," he said, "that there was an agreement between the government and The Times and Post" preventing the newspapers from publishing the information.

Wulf argued that Bryan's refusal to let Marchetti's lawyers see the secret CIA affidavit charging security violations by the former agent "emasculates our ability to prepare a defense." Bryan, however, refused him access to the document.

U.S. Fourth Circuit Court of Appeals.

Whether or not the appeal succeeds, a hearing will be held before Bryan next Friday on the government's motion for a preliminary injunction that would bar Marchetti indefinitely from writing books and articles or making statements about the CIA that do not have the agency's approval.

The key issue in the case is the secrecy pact that all CIA agents sign. In making his ruling from the bench, Bryan said, "My opinion tentatively is that this is not a First Amendment case. I am not convinced that there is not a difference between the government as an employer and the government as sovereign. It is my opinion that this is a traditional employer-employee case."

magazine, but has withdrawn from that project.

In a joint statement issued in New York, Robert L. Bernstein, president of Random House, and William A. Koshland, president of Knopf, said, "We are considering appropriate ways of assuring that the underlying First Amendment issues are properly raised in this litigation."

Wulf and ACLU general counsel Norman Dorsen argued that a secrecy pact that Marchetti signed when he went to work for the CIA in 1955 cannot be used to abridge his First Amendment right of free speech and press.

Wulf said Marchetti's case is "precisely like" last year's Pentagon papers case in which the government tried unsuccessfully to stop The New

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Court Bars Writings by Ex-CIA Man

By NED SCHARFF
Star Staff Writer

A federal judge in Alexandria has issued a permanent injunction forbidding former Central Intelligence Agency member Victor L. Marchetti to write or talk about his experiences with the CIA.

U.S. District Judge Albert V. Bryan Jr. ruled that Marchetti's attempts to write analytical articles about the agency were in violation of secrecy contracts he signed before going to work there in 1955 and before his resignation in 1969.

The CIA asked the court to restrain Marchetti's publishing activities last month after it confiscated an outline for a factual article, "Twilight of the Spooks," which Marchetti was writing for Esquire Magazine.

The restraining order will prevent Marchetti, 42, of Vienna, Va., from writing anything about what he learned at the CIA while employed there. It also covers three television interviews Marchetti already taped.

Attorneys for Marchetti's defense had argued that silencing him would be an abridgement of First Amendment rights. But Bryan ruled that the secrecy contract signed by Marchetti "constitutes a waiver of the defendant's right . . . and renders (the case) no more than a usual dispute between an employer . . . and employee."

During the month-long trial, most of which was closed to public and press because of the classified material being discussed, Marchetti's lawyers said, they argued that the CIA's methods of classifying material are arbitrary and capricious. Bryan ruled those arguments irrelevant.

"It is not the role of the court to determine whether material should be classified . . . by contract the defendant has relegated that decision to the CIA," Bryan said.

Marchetti said he resigned two years ago because of personal feelings about his work

Muzzling Mr. Marchetti

Free Speech, Security and the CIA

By Alan Barth

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UNDAUNTED by its experience in the case of the Pentagon Papers, the administration is back in court again trying to impose a prior restraint on publication. And again, of course, it is trying to justify its censorship in the name of national security.

This time, the administration has a new angle. Its attempt to suppress the Pentagon papers failed because the government was unable to sustain its burden of proving that publication would do "grave and irreparable injury" to the United States.

In the current case, however, the government has rather neatly managed to evade that burden by seeking to suppress something that has not yet been written. The menacing material exists only in the mind of a writer to whom the government imputes an intention to write something that would expose its secrets. What the administration is trying to do, in short, is to apply to the field of publication one of its favorite law-and-order gimmicks; it is trying to impose a kind of preventive detention in the realm of ideas.

The case in point—which has received all too little attention in the press—involves a man named Victor L. Marchetti who was employed by the Central Intelligence Agency for about 15 years until his resignation in the fall of 1969. In the course of his employment, he rose to the grade of GS-15, holding a variety of positions including that of Special Assistant to the Deputy Director.

Emerging from the cloistered atmosphere of the CIA, Mr. Marchetti undertook to earn a living as a writer. In 1971 he published a novel titled "The Rope Dancer," a more or less romantic tale about an organization called the National Intelligence Agency, one of the employees of which turns some classified documents over to agents of the Soviet Union. Mr. Marchetti also appeared on a number of television and radio shows, gave interviews to the press and published an article in the Nation magazine, the purport of which may be divined, perhaps, from its title: "CIA: The President's Loyal Tool." Moreover, he entered into a contract with Alfred A. Knopf, Inc. for a non-fiction book about the CIA, not yet begun.

Whatever the artistic merits of Mr. Marchetti's literary efforts, they did not win much favor at the CIA. The director of that agency, Richard Helms, went into court and obtained from U.S. District Court Judge Albert V. Bryan on May 19 a permanent injunction ordering the author to "submit to the Central Intelligence Agency, for examination 30 days in advance of release to any person or corporation, any manuscript, article or essay, or other writing, factual, fictional or otherwise, which relates to or purports to relate to the Central Intelligence Agency intelligence, intelligence activities, or intelligence sources and methods," and forbidding release of any such material "without prior authorization from the Director of Central Intelligence." Obviously, this gives Mr. Helms complete power as a censor.

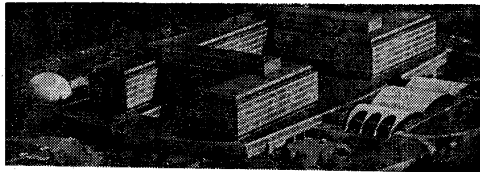
Like other employees of the CIA, Mr. Marchetti had put his signature, solemnly witnessed, on October 3, 1955, when he began employment, to a "Secrecy Agreement." In addition, on Sept. 2, 1969, when he left the CIA, Mr. Marchetti signed another document—this one called a "Secrecy Oath"—which even more categorically pledged him to reticence. "I will never," the oath intoned, "divulge, publish, or reveal by writing, word, conduct or otherwise, any information relating to the national defense and security and particularly information of this nature relating to intelligence sources, methods, and operations, and specifically Central Intelligence Agency operations, sources, methods, personnel, fiscal data, or security measures to anyone . . . without the express written consent of the Director of Central Intelligence or his authorized representative."

Here is an oath of secrecy so sweeping that it amounts almost to a vow of perpetual

silence, as though anyone emerging from the CIA must thereupon enter a Trappist monastery for the remainder of his natural life. For a pledge never to publish "any information relating to the national defense and security" is a renunciation of any participation whatever in the political process. It is, in point of fact, the renunciation of a major part of an American's birthright—the freedom of expression guaranteed by the First Amendment to the Constitution.

It is a very serious constitutional question whether a man can waive so basic a constitutional right—any more than he could put himself, by contract, into involuntary servitude for life in contravention of the terms of the 13th Amendment. In any case, so vague and so needlessly sweeping a renunciation of constitutional safeguards seems utterly foreign to the character of American law and its insistence upon ascertainable standards.

It may be that Mr. Marchetti is vulnerable on the basis of what he has already published to a suit by the CIA for breach of contract. It may even be that what he has spoken and written lays him open to criminal prosecution for violation of the Espionage Act or some other statute adopted by



UPI (1967 photo)

CIA Headquarters, Langley: "... Almost a vow of perpetual silence, as though anyone emerging from the CIA must thereupon enter a Trappist monastery for the remainder of his natural life."

Congress for the protection of information vitally affecting the national security.

Such actions would, of course, entail a trial by jury—an adversary proceeding in which the defendant would have a chance to justify his conduct and the government would be obliged to assume the burden of proving that his words, spoken or written, actually violated the terms of his contract or actually did substantial injury to the United States.

It is a radically different thing, however, for the government to forbid words before they have been uttered on the mere assumption that they are going to be injurious or to allow a single executive official to foreclose publication on the basis of his unchecked judgment that the words will, in some fashion, breach security. The difference is the difference between responsibility and censorship.

Classification of official information in the name of security is far too frequently employed as a device for covering up governmental error or inefficiency or misconduct to warrant treating mere classification by itself as a touchstone of publishability.

Disclosure of classified material sometimes vitally serves national security and the national interest. To let any public official arbitrarily foreclose it—in his own absolute and unchecked discretion, without judicial review or effective appeal of any sort—is to imperil the freedom that makes self-government possible.

To treat the Marchetti case as involving nothing more than the enforcement of an ordinary commercial contract—which is the way Judge Albert Bryan treated it—is to mistake form for essential substance. The expression of ideas cannot be enjoined in America. For to imprison ideas is to dam the democratic process.

The Marchetti case, like the case of the Pentagon Papers, tests the reach and the reality of the First Amendment. Recognizing this, the American Civil Liberties union has entered the case as Marchetti's counsel. The Association of American Publishers has submitted an amicus brief in support of the same view. Every medium of communication ought to be equally aroused. For the silencing of a writer means a control of publication.

The paramount issue in this case is the right of the people to be informed about matters of public interest. When that right is restricted, all other rights are in jeopardy.

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The CIA Responds on the Marchetti Case

On June 16, 1972, you published an article by Mr. Alan Barth, entitled "Free Speech, Security and the CIA," which discusses the case of Victor L. Marchetti. This is a case in which the government has obtained an injunction requiring Mr. Marchetti to comply with his contractual undertaking that he would submit any material having to do with intelligence for review by the Central Intelligence Agency as to whether it contained classified information relating to the national security.

Mr. Barth cites the injunction order in part, but by omitting certain parts he distorts the impact of the order and thereby also distorts the nature of the case. In enjoining Mr. Marchetti from further breaching the terms and conditions of his secrecy agreement, the order has two provisos:

"Provided, however, that this Injunction shall not apply to any information, the release of which has been authorized in accordance with the terms and conditions of the aforesaid contract, and Provided, further, that this Injunction shall apply only with respect to information obtained by said defendant by reason of his employment under the aforesaid secrecy agreement and which has not been placed in the public domain by the United States."

The Order then continues:

"Further ordered:

"That the defendant shall submit to the Central Intelligence Agency, for examination 30 days in advance of release to any person or corporation, any manuscript, article or essay, or other writing, factual, fictional or otherwise, which relates to or purports to relate to the Central Intelligence Agency intelligence, intelligence activities, or intelligence sources and methods, for the purpose of avoiding inadvertent disclosure of information contrary to the provisions and conditions of the aforesaid secrecy agreements, and such manuscript, article, essay or other writing shall not be released without prior authorization from the Director of Central Intelligence or his designated representative."

The language immediately above was quoted by Mr. Barth, but he omitted the ital-

icized portion, which is an important limitation on the scope of the injunction as the secrecy agreements apply to the publication of classified information. Under this injunction and under Mr. Marchetti's contractual undertaking, he is free to write about intelligence and he is free to criticize the Central Intelligence Agency. He has done so repeatedly in the past without any action having been taken against him. However, according to the evidence before the court he submitted to six publishers and a national magazine a draft article and a concept paper for a book without any consultation with the Agency. These contained a number of highly classified items which he has acknowledged he learned of through his employment with the Central Intelligence Agency. At this point the government felt it necessary to take steps to protect itself.

In our view, the evidence established that if published the items in question would have a serious adverse impact on intelligence sources and methods, intelligence operations, and international relations. This is the type of information which Mr. Marchetti specifically undertook not to divulge as a condition of his employment when he entered on duty with the Central Intelligence Agency in October 1955 and, as he stated in that secrecy agreement, "I take this obligation freely, without any mental reservation or purpose of evasion."

There are numerous restrictions imposed by law on government employees which limit their freedom of action, including freedom of speech. The Hatch Act is one well-known example. If such limitations can be imposed without the consent of the employee, how much more logical it is that the government can expect compliance with a voluntary undertaking in the very limited field of national security.

Mr. Barth has tried to turn this case into one of broad censorship over freedom of speech, but the record does not bear him out.

W. E. COLBY,
Executive Director,
Central Intelligence Agency.

Washington.

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National Security Unit Set Up By McGovern Organization

By Jack Fuller

Washington Post Staff Writer

Lashing out at the GOP platform and President Nixon's policies on defense and foreign affairs, the McGovern campaign announced yesterday that it has set up a panel to determine what President Nixon has done wrong and what George McGovern, if elected, can do right about national security.

The Republican platform is "just the camel's nose under the tent," said Paul G. Warnke, co-chairman of McGovern's new Policy Panel on National Security. Republican policies would lead to "ever-increasing military budgets which would exceed \$100 billion in a very few years," he said.

McGovern would aim to spend \$30 billion less on defense by 1976 than President

Nixon, said Warnke, an assistant defense secretary under President Johnson.

Warnke announced at a press conference that his co-chairman on the policy panel would be Herbert F. York, Defense Department director of research and engineering during the Kennedy years.

Seven vice chairmen on the panel will handle special areas. They are: Clark Clifford, former defense secretary, concentrating on national security planning; retired Army Lt. Gen. James M. Gavin on military manpower needs; retired Navy Rear Adm. Gene LaRocque on general purpose forces; Sen. William Proxmire (D-Wis.) on military procurement and efficiency; Charles L. Schultze, former budget bureau director, on domestic aspects of military spending; Herbert Scoville Jr., former deputy

director of the Central Intelligence Agency, on nuclear weapons policies, and Floyd Smith, president of the International Association of Machinists and Aerospace Workers, on conversion of defense production to peacetime uses.

The panel expects to produce a report on national security in September.

Warnke criticized the GOP platform for putting too great an emphasis on military force as a foreign policy tool. McGovern would de-emphasize the use of military force, he said, though without turning the nation toward isolationism.

"We can remain deeply involved in foreign aid, trade and international finance" without becoming embroiled in military commitments, Warnke said.

The \$50 billion to \$60 billion defense budget envisaged by McGovern "is hardly an isolationist position," LaRocque added.

LaRocque charged that "one-third of the GOP platform is devoted to military forces and how military pressures can be applied to other nations."

The GOP platform passed at the Republican Convention this week calls for "prudent" cuts in defense spending. But it emphasizes a need for modernizing weapons, for a new B-1 bomber and Trident submarine missile system. It rejects suggestion to cut aircraft carrier strength and defends Minuteman III and Poseidon submarine multiple warhead systems.

McGovern panelists criticized the new weapons systems, and Warnke called spending on new arms "a profligate waste."

None of the McGovern ad-

visers at the press conference criticized President Nixon's meetings with Chinese and Soviet leaders or the U.S.-Soviet strategic arms limitation agreements. But Scoville called the sum of the administration's foreign affairs maneuverings a "Jekyll and Hyde policy."

As soon as the President returned from his Moscow trip, Scoville said, the administration "started asking for more money and more dangerous weapons." Those requests, plus the administration endorsement of an amendment to the Senate resolution authorizing the U.S.-Moscow offensive weapons agreement, could make the Russians skeptical about U.S. good faith in arms bargaining, he said.

The amendment proposed by Sen. Henry M. Jackson (D-Wash.) would urge the President to seek "equality" of nuclear weapons in the second round of arms talks. It "would essentially undercut the offensive weapons agreement," Scoville said.

Under the theory of the SALT agreements, Warnke argued, the U.S. and Soviet Union may have nuclear weapons only to deter each other from using them and not for demolishing an opponent in a first strike.

The U.S. already has enough strategic weapons for deterrence, Warnke said, though he added that he would still favor continuing research and development on new weapons systems.

Defense spending trims would be made by McGovern by cutting back weapons purchases and by military manpower reform—as LaRocque put it, "getting rid of some of the superfluous general officers."

CIA Oath On Secrecy Is Upheld

RICHMOND, Va., Sept. 11 (AP) — The Fourth U.S. Circuit Court of Appeals today upheld the authority of the Central Intelligence Agency to impose a secrecy oath on its employees, but restricted the scope of the oath to matters that have been classified.

The case involved an attempt by Victor L. Marchetti, a former CIA employee, to remove himself from the oath so he can publish a book about the CIA. Marchetti resigned in 1969 after working for the agency for 14 years. His positions with the CIA included that of executive assistant to the deputy director.

Last May, U.S. District Court Judge Albert V. Bryan Jr. of Alexandria, Va., granted the government a restraining order prohibiting Marchetti from publishing information about the CIA.

In upholding Judge Bryan by a 3-0 vote, the appeals court said the secrecy oaths are legal and constitutional contracts.

The decision was written by Chief Judge Clement F. Haynesworth.

The First Amendment precludes restraint upon information that is unclassified or has been officially disclosed, Haynesworth wrote, "but we are here concerned with secret information touching upon the national defense and the conduct of foreign affairs, acquired by Marchetti in a position of trust and confidence."

The case was remanded to U.S. District Court to limit the reach of the restraining order to classified information and to allow Marchetti to pursue further legal action.

Marchetti

Appeals Court Supports C.I.A. In Blocking Article by Ex-Aide

By LES LEDBETTER

The United States Court of Appeals for the Fourth Circuit has upheld a lower court ruling restraining a former agent of the Central Intelligence Agency from publishing books or articles about his former employer without prior authorization from the Director of Central Intelligence or a designated representative.

The three-judge panel ruled in the case of Victor L. Marchetti, who left the agency in 1969 after 14 years, serving his last three years as executive assistant to the deputy director.

The judges ruled unanimously that Mr. Marchetti would not be deprived of his right to speak and write about the intelligence organization as long as he did not "disclose classified information obtained by him during the course of his employment which is not already in the public domain."

Articles Blocked

The Government brought its action against Mr. Marchetti to block an article he had submitted to Esquire magazine last March. It contended that the article contained classified information concerning intelligence sources, methods and operations.

In the opinion last Monday, Chief Judge Clement F. Haynsworth Jr. wrote for the court, "Marchetti by accepting employment with the C.I.A. and by signing a secrecy agreement did not surrender his First Amendment rights of free speech. The agreement is enforceable only because it is not a violation of those rights."

The court added that Mr. Marchetti could seek judicial review of any CIA disapproval of a manuscript for publication.

The attorney for Mr. Marchetti denounced the newest setback for his client as permitting "an extraordinary burden to be imposed upon First Amendment rights and is in direct conflict with the Supreme Court's opinion in the Pentagon papers case."

"We shall of course take the case to the Supreme Court im-



Victor L. Marchetti

mediately," said the attorney, Melvin L. Wulf, legal director of the American Civil Liberties Union.

On June 30, 1971, by a vote of six to three, the Supreme Court refused to restrain publication of the Pentagon papers by The New York Times and The Washington Post because the Government did not prove that its reasons for wanting the articles stopped outweighed the constitutional guarantee of freedom of the press.

Referring to the question of restraint prior to publication, the appeals court said, "Because we are dealing with prior restraint upon speech, we think the C.I.A. must act promptly to approve or disapprove any material which may be submitted to it by Marchetti. Undue delay would impair the reasonableness of the restraint, and that reasonableness is to be maintained if the restraint is to be enforced."

Mr. Marchetti wrote a novel, "The Rope Dancer," published by Grosset & Dunlap, shortly after leaving the C.I.A. In the hypothetical adventure story, the "National Intelligence Agency" distorts facts to fit the desires of the President and plots to overthrow the Government of Colombia.

He also published an article in the April 3, 1972, issue of The Nation entitled, "C.I.A.: The President's Loyal Tool," which criticized the agency and its activities.

Marchetti

THE EVENING STAR

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CAN'T PUBLISH ARTICLE

CIA Agent Loses Appeal

The Supreme Court today rejected, 6-3, a plea by a former Central Intelligence Agency employee for permission to publish articles about the CIA without the agency's prior approval.

The justices, in a brief order without comment, refused to hear the appeal for Victor L. Marchetti, of Vienna, Va., who worked for the CIA from 1955 to 1969.

Justices William O. Douglas, William J. Brennan Jr. and Potter Stewart dissented, saying they would grant full review of Marchetti's appeal. It takes the vote of four justices for a full court review.

The effect of the court's action was to leave standing an order by Judge Albert V. Bryan Jr. of U.S. District Court in Alexandria which bars Marchetti from writing about the agency. Bryan's order was later upheld by the 4th U.S. Court of Appeals.

THE GOVERNMENT sought the order after it

learned that Marchetti was planning to publish an article in "Esquire" magazine about the CIA.

Justice Department attorneys, representing the CIA, said that Marchetti isn't entitled to publish articles or books dealing with the agency because he signed a contract with the CIA in 1955 in which he pledged never to do so.

In appealing to the Supreme Court, the American Civil Liberties Union attorneys representing Marchetti said that Bryan's order violates his right to free speech.

They said the contract is "a systematic scheme of censorship which will surely result in the denial of the fundamental right of the American people to be supplied with information about the conduct of government."

THE COURT ORDER against Marchetti amounts to "a prior restraint forbidden by the First Amendment," they added.

Since he left the CIA, Mar-

chetti has published a novel, "The Rope Dancer," about a hypothetical "National Intelligence Agency." He also published an article in "The Nation" magazine that was critical of the CIA.

His attorneys said he has abandoned plans to publish the "Esquire" article, but has signed a contract to write a book about the CIA.

In another case involving the Washington area, the Supreme Court refused to hear an appeal in which it was asked to curtail the authority of Metropolitan Police officers to arrest persons for cursing on public streets.

THE PRACTICE of arresting people who utter curse words when accosted by police is "obnoxious" and "a serious and unlawful infringement upon the liberty of many citizens," said attorney John Vanderstar, representing William Von Sleichter, who was arrested in Georgetown in 1969.

"We strenuously urged that

this delegation of authority to police to arrest for speech on public streets should be reviewed and sharply curtailed by this court," he said. But the justices declined to go along.

Von Sleichter was arrested by an officer who testified that he spotted Von Sleichter "passing and changing" something with two other men. When he approached Von Sleichter, the officer said, Von Sleichter cursed him and ran away.

The officer found him underneath a car nearby and arrested him for disorderly conduct — cursing in public. When Von Sleichter climbed out from under the car, the officer found a bag of heroin where he had been lying.

Von Sleichter was never prosecuted for disorderly conduct. Instead, he was brought to trial only on the narcotics count. He was convicted and sentenced to a fine of \$100 or a jail term of 90 days. — **FRED BARNES.**

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The Washington Merry-Go-Round

THE WASHINGTON POST *Wednesday, Dec. 27, 1972* D 15

Slaying of Youth Angers Chippewas

By Jack Anderson

Brian Desjarlait is dead, and the Red Lake Chippewas are angry.

How he died is disputed. The federal policemen who killed him say he was armed. But U.S. Attorney Robert Renner thinks it conceivable the gun may have been "planted" on the body.

A classified report says one of the three Indian officers involved in the shooting had been charged with a civil rights violation. He had been accused by a Desjarlait family member who said the police beat him. After an FBI investigation, the charges were dismissed.

But the details are no longer important. All the tribesmen care is that a restless, yearning, 15-year-old Chippewa boy is dead, the victim of a policeman's bullet.

Suddenly, he has become the symbol of the disorder, disease and death that have plagued the Minnesota Chippewa reservation. The situation at Red Lake, Renner told us, is "explosive."

The wonder to us, after studying the Broken Treaties Papers taken from government files by the Indians, is that Red Lake took so long to produce a martyr.

For Red Lake is a classic example of how the federal government, often in league with the tribes' own leaders, have

let young Indians languish and drift and sometimes die.

Abounding Poverty

The stolen papers show that the Red Lake lands, comprising an area about the size of Rhode Island, are rich in timber, fish and probably minerals. Yet the median family income is a stark \$1,300.

"Less than 60 per cent of [the] labor force is presently regularly employed," declares one document. And half of those who work are employed on federal welfare projects.

Not that the Chippewas are shiftless. One report describes them as "friendly and cooperative people [with] a high degree of manual dexterity . . . quick to learn trades and skill under competent guidance." More than that, they are "a people eager for employment."

The stolen documents show that at least a dozen federal agencies have tried to help the Chippewas in the past. But the attempts to help, more often than not, have wound up hindering the Indians.

"About 15 years ago," reports one study, "the federal government undertook a dredging operation of the channel of the Red Lake River. [It] destroyed one of the great natural habitats for fish and wildlife plus one of the best nesting grounds for ducks in the United States."

It also put many Chippewas

out of the hunting and trapping business.

Bleak Conditions

Several decades of federal "help" are summed up in these bleak terms: "No air, bus, rail or regular commercial freight service; limited highways, lack of commercial shopping; no motel accommodations; lack of tribal capital for development; lack of employment; lack of banking . . ."

Under present planning, says another document, "it will be 1997 before . . . roads are upgraded." Meanwhile, the secondary roads on the reservation are "full of chuckholes and are hazardous."

The houses on the reservation are no better than the roads. Despite federal housing programs, charges a study, there are "deplorable housing conditions."

And despite federal licensing of trading posts, another report says, "conditions . . . are indeed atrocious. [There] are grounds for immediate revocation." The trading post owners, of course, deny the charges.

What the Broken Treaties Papers show, in essence, is that most of the money allocated for the Indians has gone instead to benefit the bureaucrats who have administered the government programs.

Vietnam Intelligence

The real reason President

Nixon resumed intensive bombing of North Vietnam, according to the word going out from Henry Kissinger's office, was to break up military preparations for a renewed offensive after the cease-fire.

The President has overlooked the preparations, according to official White House leaks, as long as he thought there was a chance for an enforceable cease-fire. Not until Hanoi hedged about honoring the cease-fire did the President resort to bombing again, it is said.

We have had access, however, to intelligence reports which dispute the official leaks. The infiltration of men and materiel into South Vietnam, according to the reports, hasn't increased appreciably. Instead of large troop units, Hanoi has been sending down political personnel who could be used to drum up political support and run a civil government. This would indicate that Hanoi anticipates a political rather than military struggle.

The military supplies that are reaching North Vietnamese forces in the south also don't appear to be adequate for a large-scale offensive. More likely, they are intended to defend Communist positions in case of South Vietnamese military action.

The secret intelligence and the official leaks, in other words, simply don't jibe.

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CIA to Show Its Case on Marchetti

By NED SCHARFF
Star Staff Writer

The Central Intelligence Agency has agreed to reveal its case against former agent and would-be author Victor L. Marchetti to lawyers working in his defense.

The CIA gave in to demands by American Civil Liberties Union attorneys yesterday while a three-judge panel of the U.S. 4th Circuit Court of Appeals in Alexandria was hearing the case.

The jurists, however, refused to invalidate a temporary restraining order placed on Marchetti on April 17, which prohibited him from talking to news media or publishers about government secrets.

Marchetti, 42, of Vienna, Va., resigned from the CIA in 1969 after working there for 14 years.

The government obtained the injunction against him because of an article he proposed to write about the workings of the agency for Esquire Magazine.

Marchetti also had contracted with publishers Alfred A. Knopf, Inc. to write a book-length analysis of the CIA.

In seeking the injunction however, the CIA had argued before U.S. District Court Judge Albert V. Bryan Jr. that the information it used in its case against Marchetti was so dangerous to government security that even Marchetti's attorneys should not be allowed to read the affidavit.

The three-judge panel, which included Clement L. Haynesworth of Greenville, S. C., J. Braxton Craven Jr. of Asheville, N.C. and Harrison B. Winter of Baltimore, enjoined the CIA from interfering with any potential witnesses in the case who have not already been called.

In all cases, the judges said, the CIA should attempt to grant security clearance to witnesses in the case so that they may examine the government's case against Marchetti in preparing their testimony.

Marchetti

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C.I.A. WILL GIVE DATA TO ENJOIN EX-AGENT

WASHINGTON, April 26 (AP) — The Central Intelligence Agency agreed today to disclose its case against a former agent, Victor L. Marchetti, to lawyers defending his right to write about the agency.

The C.I.A. acceded to demands by lawyers of the American Civil Liberties Union while a three-judge panel of the United States Court of Appeals for the Fourth Circuit was hearing the case in Alexandria, Va.

The jurists, however, refused to invalidate a temporary restraining order placed on Mr. Marchetti on April 17, which prohibited him from talking to news media or publishers about Government secrets.

The Government obtained the injunction against him because of an article that he had proposed to write about the workings of the agency for Esquire Magazine. He also has contracted with the publisher Alfred A. Knopf, Inc., to write a book about the C.I.A.

The three-judge panel said that the C.I.A. should attempt to grant security clearance to witnesses in the case so that they may examine the Government's case against Mr. Marchetti in preparing their testimony.